



U.S. Department of Justice

United States Attorney  
Southern District of New York

USDS SDNY

DOCUMENT

ELECTRONICALLY FILED

DOC #:

DATE FILED: 4/1/08

86 Chambers Street  
New York, New York 10007

## MEMO ENDORSED

April 1, 2008

## VIA FACSIMILE

Hon. P. Kevin Castel  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 2260  
New York, NY 10007

Re: Lee v. Gonzalez, et al.  
08 Civ. 1022 (PKC)

Dear Judge Castel:

This Office represents the defendants in the above-referenced case. An initial pre-trial conference has been scheduled for April 18, 2008, at 12:30 p.m. The Government respectfully requests that the initial pre-trial conference be treated as a pre-motion conference, and that the deadline for the Government to answer or otherwise respond to the complaint be stayed until a briefing schedule is set at the conference.

Plaintiff Jinyoung Lee filed this complaint on January 31, 2008. She alleges that she filed a Form I-485 application for adjustment of status in October 2006 and that United States Citizenship & Immigration Services ("CIS") has unreasonably delayed its adjudication of her application. She seeks, among other things, an order compelling CIS to adjudicate the application.

The Government believes that the Court lacks subject matter jurisdiction over this action. Courts in this district have consistently held that they lack jurisdiction over claims relating to an alien's immigration status, including claims relating to adjudication of an application for adjustment of status. See, e.g., Vladagina v. Ashcroft, No. 00 Civ. 9456 (DAB), 2002 WL 1162426, at \*4 (S.D.N.Y. Apr. 8, 2002) (no jurisdictional basis to compel adjudication of adjustment adjudication); Keane v. Chertoff, 419 F. Supp. 2d 597, 600 (S.D.N.Y. 2006); Espin v. Gantner, 381 F. Supp. 2d 261, 265 (S.D.N.Y. 2005); Hanif v. Gantner, 369 F. Supp. 2d 502, 505-06 (S.D.N.Y. 2005); Zheng v. Reno, 166 F. Supp. 2d 875, 880-81 (S.D.N.Y. 2001); Sadowski v. INS, 107 F. Supp. 2d 451, 454 (S.D.N.Y. 2000).

This Office has been in contact with CIS regarding this action, and I am hopeful that CIS will adjudicate plaintiff's application within the next sixty days, which would moot this action. In the meantime, however, the Government respectfully requests that the Court set a briefing

*Defendants to answer or move adjourned to a date set at the April 18 conference.*  
*SO ORDERED.*  
*[Signature]*  
*USDS*  
*4-1-08*

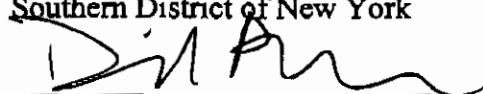
schedule at the initial pre-trial conference so that the Government can move to dismiss the complaint in the event that the application is not adjudicated.

I thank the Court for its attention to this matter.

Respectfully submitted,

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York

By:

  
DAVID BOBER  
Assistant United States Attorney  
(212) 637-2718

cc: Daniel Scott Shabasson, Esq. (via facsimile)